

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the proposed amendment)
of ARM 2.59.401 pertaining to credit)
union supervisory and examination fees)

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On October 25, 2007, at 8:30 a.m., a public hearing will be held in Room 342 of the Park Avenue Building, 301 S. Park, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Administration, Division of Banking and Financial Institutions, will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Division of Banking and Financial Institutions no later than 5:00 p.m. on October 18, 2007, to advise us of the nature of the accommodation that you need. Please contact Christopher Romano, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to cromano@mt.gov.

3. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

2.59.401 CREDIT UNIONS - SUPERVISORY AND EXAMINATION FEES

(1) The following annual ~~\$~~supervisory fees ~~(annual)~~ will be assessed upon the December 31 total assets of each year and become due and payable on or before February 15 of the next succeeding year.:

<u>Total Assets</u>	<u>Fee</u>
\$500,000 or less	0.00026 x total assets
Over \$500,000 but not over \$1,000,000	\$130 plus 0.000221 x total assets in excess of \$500,000
Over \$1,000,000 but not over \$2,000,000	\$240.50 plus 0.000182 x total assets in excess of \$1,000,000
Over \$2,000,000 but not over \$5,000,000	\$422.50 plus 0.00013 x total assets in excess of \$2,000,000
Over \$5,000,000	\$812.50 plus 0.000091 x total assets in excess of \$5,000,000
<u>\$2,500,000 or less</u>	<u>0.00030 x total assets</u>

<u>Over \$2,500,000, but not over \$10,000,000</u>	<u>\$750 plus 0.000225 x total assets in excess of \$2,500,000</u>
<u>Over \$10,000,000, but not over \$50,000,000</u>	<u>\$2,437.50 plus 0.0001425 x total assets in excess of \$10,000,000</u>
<u>Over \$50,000,000, but not over \$100,000,000</u>	<u>\$8,137.50 plus 0.00008250 x total assets in excess of \$50,000,000</u>
<u>Over \$100,000,000, but not over \$250,000,000</u>	<u>\$12,262.50 plus 0.00007850 x total assets in excess of \$100,000,000</u>
<u>Over 250,000,000</u>	<u>\$24,037.50 plus 0.00007500 x total assets in excess of \$250,000,000</u>

~~The above fees will be assessed upon the December 31 total assets of each year and become due and payable on or before February 15 of the next succeeding year.~~

(2) ~~Examination fees:~~

(a) ~~The fee for the regular, annual examination will be calculated according to the following schedule:~~

<u>Total Assets</u>	<u>Fee</u>
\$500,000 or less	0.00078 x total assets
Over \$500,000 but not over \$1,000,000	\$390 plus 0.0003575 x total assets in excess of \$500,000
Over \$1,000,000 but not over \$5,000,000	\$568.75 plus 0.00026 x total assets in excess of \$1,000,000
Over \$5,000,000	\$1,608.75 plus 0.0000975 x total assets in excess of \$5,000,000
<u>\$2,500,000 or less</u>	<u>0.000225 x total assets</u>
<u>Over \$2,500,000, but not over \$5,000,000</u>	<u>\$562.50 plus 0.000215 x total assets in excess of \$2,500,000</u>
<u>Over \$5,000,000, but not over \$15,000,000</u>	<u>\$1,100.00 plus 0.0001875 x total assets in excess of \$5,000,000</u>
<u>Over \$15,000,000, but not over \$50,000,000</u>	<u>\$2,975.00 plus 0.000125 x total assets in excess of \$15,000,000</u>
<u>Over \$50,000,000, but not over \$100,000,000</u>	<u>\$7,350.00 plus 0.000105 x total assets in excess of \$50,000,000</u>

Over 100,000,000, but not
over \$250,000,000

\$12,600.00 plus 0.00009 x total assets
in excess of \$100,000,000

Over 250,000,000

\$26,100.00 plus 0.000055 x total assets
in excess of \$250,000,000

(b)(3) A charge of \$1025 per hour per examiner engaged in the examination will be made in addition to the above charges. The number of hours charged for examiners in training will be adjusted to exclude time devoted to training.

(c) and (d) remain the same, but are renumbered (4) and (5).

AUTH: 32-3-201, MCA

IMP: 32-3-201, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.401 to ensure that revenue collected from the credit union supervisory and examination fees is commensurate with the costs associated with the division's regulation of state-chartered credit unions. The credit union supervisory and examination fees have not been increased since 1991. The cost of regulating credit unions has increased and now exceeds the current revenue from the supervisory and examination fees. The increased costs are reflected in a career ladder professional program implemented to recruit and retain credit union examiners, professional education and training of the credit union examiners, and increased overhead expenses in the areas of rent, travel, supplies, and communications. The proposed adjustment will result in an increase in supervisory and examination fees for the 11 state-chartered credit unions regulated by the division. The supervisory fees are collected each year, but the examination fees are only collected after the completion of the division's examination. The frequency of these examinations may vary and all 11 state-chartered credit unions may not be examined each year. It is certain that all 11 state-chartered credit unions would be examined within a period of three years. It is anticipated that this proposed increase would annually, on average over the next three years, increase revenue for the division by \$23,175.

It is reasonably necessary for the division to amend subsection (2)(a) in order to eliminate the specific reference to annual examinations. The frequency of these examinations is at the discretion of the division as set forth by 32-3-203, MCA. The division has utilized examination frequency guidance from the National Credit Union Administration which sets forth an 18-month cycle for certain credit unions. The division has implemented this guidance.

4. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to kosullivan@mt.gov, and must be received no later than November 2, 2007.

5. Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, has been designated to preside over and conduct the hearing.

6. An electronic copy of this Proposal Notice is available through the Department of Administration's web site at <http://doa.mt.gov/AdministrativeRules.asp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

7. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Christopher Romano, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to cromano@mt.gov; or may be made by completing a request form at any rules hearing held by the Division of Banking and Financial Institutions.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Dal Smilie
Dal Smilie, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 24, 2007.